

Applicants elect, with traverse, Group II, Claim 3-5, 8-11, 17, 21, 22, 26 and 31, for further prosecution. No Election of Species is necessary as Group III is not elected.

Applicants traverse the Restriction and Election of Species Requirement on the grounds that the **Examiner has already provided an Office Action on the merits for all claims and, thus, cannot allege that a burden exists in searching all the claims.**

Applicants traverse the Restriction Requirement on the additional grounds that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority. The Authority did not take the position that unity of invention was lacking in the International application and examined all claims together. A copy of the **International Preliminary Examination Report** is attached herewith.

Applicants note that **PCT Article 27(I)** states that no national law shall require compliance with requirements relating to the form and contents of the International application different from or additional to those which are provided for in the Patent Cooperation Treaty and the Regulations.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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Translation

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

|  |   |  |
|--|---|--|
| Applicant's or agent's file reference<br>FI-2300   | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |  |
| International application No.<br>PCT/JP00/06943  | International filing date (day/month/year)<br>05 October 2000 (05.10.00)  | Priority date (day/month/year)<br>05 October 1999 (05.10.99) |
| International Patent Classification (IPC) or national classification and IPC<br>C08F 10/06, 4/60, C08L 23/10 |   |  |
| Applicant<br>IDEMITSU PETROCHEMICAL CO., LTD.  |   |  |

|  |  |
|--|--|
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p>  |  |
| <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input checked="" type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p> |  |

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|--|--|
| Date of submission of the demand<br>05 March 2001 (05.03.01) | Date of completion of this report<br>05 July 2001 (05.07.2001) |
| Name and mailing address of the IPEA/JP                      | Authorized officer   |
| Facsimile No.  | Telephone No.  |

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP00/06943

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☐ the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer-readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP00/06943

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

|                               |        |             |     |
|-------------------------------|--------|-------------|-----|
| Novelty (N)                   | Claims | 16-27,29,30 | YES |
|                               | Claims | 1-15,28     | NO  |
| Inventive step (IS)           | Claims | 29,30       | YES |
|                               | Claims | 1-28        | NO  |
| Industrial applicability (IA) | Claims | 1-30        | YES |
|                               | Claims |             | NO  |

### 2. Citations and explanations

This IPER has been prepared based on the following documents 1 and 2.

Document 1: JP, 10-259207, A

Document 2: EP, 818458, A1 (& WO, 96-30380, A1)

#### Claims 1-9, 12, 13 and 28

The subject matters of claims 1-9, 12, 13 and 28 do not appear to be novel or to involve an inventive step in view of documents 1 and 2.

Documents 1 and 2 respectively describe using the catalyst specified in claims 8, 9, 12, 13 and 28 for homopolymerizing propylene or copolymerizing propylene and ethylene.

Example 1-1 of document 1 and Example 6 of document 2 use the (1,2'-ethylene)(2,1'-ethylene)-bis(3-methylindenyl)zirconium dichloride used in Example 4 of the present application.

The propylene polymers disclosed in documents 1 and 2 are considered to have the properties defined in claim 1-7 since they are produced according to the same method.

#### Claims 10, 11, 14 and 15

The subject matters of these claims relate to propylene polymers restricted in production method. Since propylene polymers per se are defined in these subject matters, the propylene polymers caused to have the same structure do not appear to be novel if they are publicly known, even if they are produced according to different methods.

The subject matters defined in claims 10, 11, 14 and 15 cannot be structurally distinguished from the propylene polymers disclosed in documents 1 and 2.

#### Claims 16-27

The subject matters of claims 16-27 do not appear to involve an inventive step in view of documents 1 and 2.

A person skilled in the art often practices adding a nucleating agent to a propylene polymer, molding it and mixing it with another propylene resin. A person skilled in the art could have easily carried out these operations for the propylene polymers described in documents 1 and 2.

#### Claims 29 and 30

The subject matters of claims 29 and 30 appear to be novel and to involve an inventive step.

The transition metal compound (A') used in the catalyst of claims 29 and 30 is a compound, in which a group containing a hetero-atom such as oxygen, halogen or silicon replaces at a cyclopentadienyl ring or indenyl ring. Documents 1 and 2 neither describe nor suggest the use of such a transition metal compound as a catalyst ingredient.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP00/06943

## VI. Certain documents cited

### 1. Certain published documents (Rule 70.10)

| Application No.<br>Patent No. | Publication date<br>(day/month/year) | Filing date<br>(day/month/year) | Priority date (valid claim)<br>(day/month/year) |
|-------------------------------|--------------------------------------|---------------------------------|---|
| WO 99/67303 A1 [EX]           | 29 December 1999 (29.12.1999)        | 25 June 1999 (25.06.1999)       | 25 June 1998 (25.06.1998)                       |

### 2. Non-written disclosures (Rule 70.9)

| Kind of non-written disclosure | Date of non-written disclosure<br>(day/month/year) | Date of written disclosure<br>referring to non-written disclosure<br>(day/month/year) |
|--------------------------------|--|---|
|--------------------------------|--|---|